

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-210254

DATE: January 19, 1983

MATTER OF: Bloomington Crushed Stone, Inc.

DIGEST:

GAO will review Small Business Administration compliance with its Standard Operating Procedures governing award of 8(a) subcontracts only when a showing of bad faith or fraud on the part of Government procurement officials has been made. Protest dismissed.

Bloomington Crushed Stone, Inc. (Bloomington), protests the award of a contract by the Naval Weapons Support Center to the Small Business Administration (SBA) and the award or proposed award to Medina Enterprises, Inc. (Medina), under section 8(a) of the Small Business Act. 15 U.S.C. § 637(a) (1976), as amended by Pub. L. No. 95-507, October 24, 1978, 92 Stat 1757. The contract is an indefinite quantity type contract for several types of crushed stone.

Bloomington argues that the SBA did not follow its procedures in designating Medina an economically disadvantaged small business concern. In this circumstance, Bloomington submits that the Navy has violated the policy of the Department of Defense, which contemplates that only economically disadvantaged concerns will be permitted to compete under the 8(a) program.

Bloomington's protest is dismissed.

Our review of SBA action under the 8(a) program is limited since the SBA is afforded broad discretion under the applicable statute. SBA determinations will not be questioned absent a showing of fraud or bad faith on the part of Government procurement officials. Also, allegations that the SBA violated its Standard Operating Procedures (SOP) generally are not sufficient to invoke our review, because the SOP is "primarily for the internal guidance of agency employees in performing their official functions" and may be waived. Jets Services, Inc., B-199721, March 11, 1981, 81-2 CPD 300.

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Here, Bloomington has not alleged, let alone shown, bad faith or fraud on the part of Government procurement officials. Therefore, the protest is dismissed.

Harry R. Van Cleve
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Acting General Counsel